

INFORMATION BULLETIN #88

INCOME TAX

JANUARY 2003

(Replaces Bulletin #88 dated October 1997)

DISCLAIMER: Information Bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Taxation of Nonresident Professional Athletes

REFERENCES: IC 6-3-2-2; IC 6-3-2-2.7; IC 6-3-4-1

INTRODUCTION

Nonresident professional athletes playing or on contract with a team will apportion their income to Indiana based on duty days performed in Indiana compared to total duty days in a taxable year.

I. Applicable Teams and Team Players

The provision for apportioning income of nonresident athletes' income applies to members of a professional baseball, basketball, football, hockey, or soccer team that played games or had services rendered by a team member in Indiana.

The provision applies to employees who are active players, players on a disabled list, and other individuals required to travel with and perform services on behalf of the team on a regular basis. This includes coaches, managers, and trainers.

II. Income That is Subject to Apportionment

Income is defined to mean the total compensation received during the taxable year for services rendered from the beginning of the official preseason training through the last game in which the team competes and income received from participation in instructional leagues, an all-star or pro bowl game with a promotional caravan.

The term includes salaries, wages, bonuses, and any other type of compensation paid to a team member for services rendered in that year. The term does not include strike benefits, severance pay, termination pay, contract or option year buyout payments, expansion or relocation benefits, or any other payments not related to services rendered to the team.

Bonuses do not include a signing bonus paid to a person. To qualify as a signing bonus, all the following conditions must be met:

- 1) The payment of the signing bonus is not conditional upon the signer playing any games for the team, performing any subsequent services for the team or making the team.
- 2) The signing bonus is payable separately from the salary and any other compensation.
- 3) The signing bonus is not refundable.

III. Definition of Duty Days

"Total duty days" means all days during the taxable year that a team member renders a service for the team, beginning with the team's official preseason training period through the last game in which the team competes or is scheduled to compete. The term includes duty days on which a team member renders a service for the team on a date that does not fall within this period. Duty days include all of the following:

- a) game days, practice days, days spent at team meetings, days spent with a promotional caravan and at preseason training camps, and days served with the team through all postseason games in which the team competes or is scheduled to compete;
- b) days spent conducting training and rehabilitation activities, but only if the service is conducted at the facilities of the team;
- c) travel days that do not involve either a game, practice, team meeting, promotional caravan, or other similar team event;
- d) days spent participating in instructional leagues and all-star or pro bowl games; and
- e) days for which a team member is on the disabled list.

"Indiana duty days" means the number of total duty days spent by a team member within Indiana rendering a service for the team in any manner during the taxable year, except:

- a) travel days spent in Indiana that do not involve either a game, practice, team meeting, promotional caravan, or other similar team event; and
- b) those days spent in Indiana for which a team member is on the disabled list.

IV. Partial Year Team Member

Total duty days for an individual joining a team during the season begins on the day the individual joins the team, and, for an individual who leaves a team, ends on the day the individual leaves the team. When an individual changes teams during a taxable year, a separate duty day calculation must be made for the period the individual was with each team. Total duty days do not include days for which a team member is not compensated and is

not rendering a service for the team in any manner, including days when the team member has been suspended without pay and prohibited from performing any services for the team.

V. Calculation of Indiana Income

For purposes of calculating Indiana income, it is the individual's total income during the taxable year multiplied by the following fraction:

- 1) The numerator of the fraction is the individual's Indiana duty days for the taxable year.
- 2) The denominator of the fraction is the individual's total duty days for the taxable year.

EXAMPLE: A nonresident team member plays one game in Indiana with a practice day before the game, (two (2) Indiana duty days). The total duty days during the year totaled one hundred and fifty (150). The fraction will be two divided by one hundred and fifty or 1.33%. This percentage is then multiplied by the total income to arrive at Indiana income.

This calculation is presumed to represent an equitable apportionment of the team member's compensation. If the Department or the team member demonstrate this calculation is not an equitable apportionment of the team member's income, then either may use a different formula that provides an equitable apportionment. The team member's alternative method must be thoroughly explained on the individual's tax return and approved by the Department.

VI. Simplified Reporting for Teams not Located in Indiana

The Department may establish simplified reporting for members of a team, if the team is not based in Indiana. The Department will establish a withholding system that requires the team to withhold adjusted gross income tax for each team member and to remit the withheld taxes to Indiana on an annual basis. The Department may require each team to submit information for each team member regarding total income, Indiana income subject to tax under this section, and the amount of tax withheld. Remittance of the withholding tax and submission of the required

information satisfies the team member's tax liability and return filing responsibilities. A team that is required to withhold and remit shall provide all participating team members with a Form W-2 evidencing the amount of tax withheld and remitted to Indiana.

Even though a team is required to withhold and remit, a team member may file an individual income tax return to claim a refund if the amount remitted exceeds the amount otherwise owed using the above described methodology. However, if a team member files an individual income tax return to claim a refund, the team member is required to notify the team member's state of residence of the filing by attaching a copy of the Indiana return to the taxpayer's residence return.

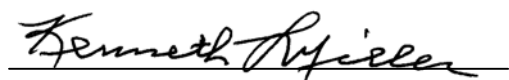
A team member reporting under the simplified method may not use any deduction, exemption, or exclusion to reduce the Indiana adjusted gross income.

NOTE: For a team member to participate in the simplified reporting, a team member's compensation from the team must be the only source of income attributable to Indiana.

If a team member leaves the team during the taxable year, the team remains responsible for remitting the appropriate tax.

VII. Reciprocity Agreements

Reciprocity agreements that are in place with other states will be honored with nonresident team members if they play for a nonresident team or live in a reciprocity state and play for an Indiana team.



Kenneth L. Miller
Commissioner